

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE COMPLAINT OF
MICHELE A. D'ANCONA, *as Executrix of*
the Estate of Peter Rocco D'Ancona
and Talkin' Trash, bearing NY 7257
GY,

MEMORANDUM & ORDER
19-CV-5492 (EK) (VMS)

For Exoneration from or
Limitation of Liability,

Petitioner.

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ERIC KOMITEE, United States District Judge:

Peter Rocco D'Ancona and Clemendina Sgambati died from carbon monoxide poisoning while aboard a vessel (Talkin' Trash) docked on Fire Island in 2018. Peter D'Ancona was the owner of the boat. The Petitioner, Michele D'Ancona, is the Executor of Peter D'Ancona's estate, which includes the vessel. Petitioner brought this action pursuant to 46 U.S.C. §§ 30501-512 and Rule F of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions ("Supplemental Rule F"), seeking exoneration from or limitation of civil and maritime liability.

On August 28, 2020, Magistrate Judge Vera M. Scanlon entered an order directing, among other things, the Clerk of Court to issue a "Notice" that all persons file their respective claims on or before October 31, 2020, and for Petitioner to publish the Notice as provided in Supplemental Rule F. As of

October 31, only three parties – Town and Country Marina Corp.; Vic's Marine East, Inc.; and Anthony R. Sgambati, as Executor of the Estate of Clemendina Sgambati – have filed claims.

After the Clerk of Court noted a default against all others not filing claims, Petitioner filed a motion for default judgment under Federal Rule of Civil Procedure 55(b)(2) and Supplemental Rule F. Pursuant to the motion, Petitioner seeks a declaration that the time for filing a claim or answer in this action has closed, and the entry of a judgment against any and all persons or entities who failed to file a claim or answer by October 31, 2020. I referred this motion to Judge Scanlon for a Report and Recommendation ("R&R").

The Court has received Judge Scanlon's comprehensive R&R dated May 24, 2021. ECF No. 52. Judge Scanlon recommends that I grant Petitioner's motion for default judgment and exoneration. No entity has filed objections and the time to do so has expired. Accordingly, the Court reviews the R&R for clear error on the face of the record. See Advisory Comm. Notes to Fed. R. Civ. P. 72(b); accord *State Farm Mut. Auto. Ins. Co. v. Grafman*, 968 F. Supp. 2d 480, 481 (E.D.N.Y. 2013). Having reviewed the record, the Court finds no error. The Court adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1).

I therefore grant the Petitioner's motion. The Clerk of Court is directed to enter default judgment and exoneration

against any claimants other than Town and Country Marina Corp.;
Vic's Marina East, Inc.; and Anthony R. Sgambati, as Executor of
the Estate of Clemendina Sgambati.

SO ORDERED.

/s Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: September 30, 2021
Brooklyn, New York